Such a rule clearly imposes too great a burden, even though it generally has been limited to cases where the killing was caused by a deadly weapon. But the advisability of adhering to the rule followed by the majority of courts seems questionable in an age when punishment for crime has lost its barbarous character and when unnecessary technicalities are being dispensed with to promote justice. Consequently, an increasing number of jurisdictions have adopted the doctrine of the principal case, that self-defense must be proved by the accused by a preponderance of the evidence. *State* v. *Dillard*, 59 W. Va. 197, 53 S. E. 117; *Szalkai* v. *State*, 96 Ohio St. 36, 117 N. E. 12. Since justification by way of self-defense admits the criminal act, such a rule places no unreasonable burden upon the accused. See 17 HARV. L. REV. 208.

DAMAGES — BREACH OF WARRANTY — DUTY OF BUYER TO MITIGATE CONSEQUENTIAL DAMAGES. — The plaintiff sold to the defendant a refrigerator. In an action for the balance of the purchase price the defendant counterclaimed for losses due to the failure of the refrigerator to fulfill the purpose for which it was bought and introduced evidence that he had lost thereby a large quantity of flowers. A verdict was rendered in favor of the defendant for affirmative damages. *Held*, that the evidence supported this verdict. *Buchbinder Bros.* v. *Valker*, 173 N. W. 947 (N. D.).

For breach of warranty a vendee is permitted to recover consequential damages resulting from the defect, in addition to the difference between the actual and the represented value of the goods. *Black* v. *Elliott*, 1 F. & F. 595; *French* v. *Vining*, 102 Mass. 132; *New York Mining Co.* v. *Fraser*, 130 U. S. 611. See WILLISTON ON SALES, § 614. The courts, indeed, have gone very far in cases of warranties in considering such indirect consequences as recoverable. See 33 HARV. L. REV. 475. But it is a general principle of the law of damages that the injured party cannot recover for losses which he could have avoided by the use of reasonable care. *Texas & Pacific Ry. Co.* v. *White*, 101 Fed. 928; *Gordon* v. *Brewster*, 7 Wis. 355. This principle applies to damages for breach of warranty. *Razey* v. *J. B. Colt Co.*, 106 N. Y. App. Div. 103, 94 N. Y. Supp. 59; *Mark* v. *Williams Cooperage Co.*, 204 Mo. 242, 103 S. W. 20. In the principal case the jury allowed a recovery for the loss of flowers repeatedly placed in the defective refrigerator furnished by the vendor. The minority of the court contended that evidence of these losses should not have been admitted. But it is for the jury to decide whether any of the damages claimed could have been avoided with due care. *Tatro* v. *Brower*, 118 Mich. 615, 77 N. W. 274; *Ford* v. *Illinois Refrigerating Construction Co.*, 40 Ill. App. 222. On this ground the case can be supported.

EQUITY — DAMAGES — AWARD OF SEPARATE DAMAGES TO EACH OF SEVERAL PLAINTIFFS IN ADDITION TO AN INJUNCTION. — The defendant's factory constituted a nuisance to neighboring landowners who joined in a bill in equity asking for an injunction and damages for the injuries suffered by each. The Georgia Code provides that where there is one common right to be established by several persons against another, they may join in the same suit against him. (GA. CIVIL CODE, § 5419.) A demurrer on the ground of misjoinder of parties and causes of action was interposed by the defendant. *Held*, that the demurrer be overruled. *Knox* v. *Reese*, 100 S. E. 371 (Ga.).

That equity has jurisdiction to enjoin a permanent or continuing nuisance is clear. *Wood* v. *Conway Corporation*, [1914] 2 Ch. 47; *Nixon* v. *Bolling*, 145 Ala. 277, 40 So. 210. Where several landowners are injured by the same nuisance, equity permits them, for the purpose of avoiding a multiplicity of suits, to join in a single bill for an injunction. *Cadigan* v. *Brown*, 120 Mass. 493; *Murray* v. *Hay*, 1 Barb. Ch. (N. Y.) 59. *Contra*, *Fogg* v. *Nevada C. O. Ry. Co.*, 20 Nev. 429, 23 Pac. 840. See 1 POMEROY, EQ. JUR., 4 ed., § 257. It is axiomatic that

once having acquired jurisdiction for any purpose, equity may proceed and give complete relief; and accordingly, where a plaintiff establishes his right to a permanent injunction, he may also have damages for past injury. *Keppel* v. *Lehigh Coal, etc. Co.*, 200 Pa. 649, 50 Atl. 302. See 1 AMES, CASES, EQUITY, 571, note; 1 POMEROY, EQ. JUR., 4 ed., § 237. If damages had been the only remedy sought by the several plaintiffs, the jurisdiction of equity having been invoked solely to avoid a multiplicity of suits, it could be said, with some show of reason, that there was a misjoinder of causes of action, — that each action should be tried separately at law. *Ducktown Sulphur, etc. Co.* v. *Fain*, 109 Tenn. 56, 70 S. W. 813; *Tribette* v. *Ill. Cent. R. Co.*, 70 Miss. 182, 12 So. 32; *Roanoke Guano Co.* v. *Saunders*, 173 Ala. 347, 56 So. 198. But *cf. Guess* v. *Stone, etc. Ry. Co.*, 67 Ga. 215. But where several plaintiffs are permitted to join in a bill for an injunction, there seems to be no reason why equity should not award separate damages to each, as was done in the principal case. However, owing to the former hostility of the common-law courts, equity has, in such a situation, been reluctant to give the characteristically legal remedy of money damages even by way of complete relief. *Murray* v. *Hay*, *supra; City of Paducah* v. *Allen*, 49 S. W. (Ky.) 343. See *Grant* v. *Schmidt*, 22 Minn. 1, 3. The tendency represented by the principal case is a wholesome one.

HOMICIDE — INTENT — INTENT TO KILL NOT COINCIDENT WITH KILLING. — The accused struck his wife with a plowshare. Under a reasonable belief that she was dead, the accused then hung her to a beam, so that it might be thought she had committed suicide. In fact, it was the hanging and not the blow that caused death. *Held*, that the accused is not guilty of murder under the Indian Penal Code. *In re Palani Goundan*, 26 Madras L. T. R. 68.

At common law it is clear that the hanging, of itself, would not make the accused guilty of murder because of the lack of a guilty mind, since the intent of an accused must depend on the facts as he reasonably conceived them. *Shorter* v. *People*, 2 Comst. (N. Y.) 193; *Reg.* v. *Rose*, 15 Cox. c. c. 540. And obviously the blow with the plowshare, of itself, would not make him guilty even of manslaughter, because it did not kill. But the hanging having been done to conceal the effects of the blow, the two may be regarded as so bound together that whatever intent the accused had at the time he struck the blow may be attributed to him at the time of the hanging. *Cf. Jackson* v. *Commonwealth*, 100 Ky. 239, 38 S. W. 422, 1091. Similarly, in other parts of the criminal law it is held that the intent outlives the technical completion of the offense. On such reasoning, if A and B commit a burglary in common, and during their escape A kills a man, B is guilty of murder. *Starks* v. *State*, 137 Ala. 9, 34 So. 687. Under this view of the principal case the defendant would, at common law, be guilty of either murder or manslaughter, according to the nature of the original assault. *Jackson* v. *Commonwealth*, 100 Ky. 239, 38 S. W. 422, 1091. But this theory is not wholly satisfactory, because it operates as a conclusive presumption that at the time of his second act the accused had a certain mental state, which it is quite possible he did not have in fact. It is suggested that the difficulty could be overcome by regarding the blow as the proximate cause of death, either on the ground that it directly caused the hanging, or that the hanging was done in an attempt to lessen the danger (to himself) caused by the blow. Both these theories are equally applicable under the Indian Code. See INDIAN PENAL CODE, § 299.

ILLEGAL CONTRACTS — CONTRACT AGAINST PUBLIC POLICY — MEMBER OF LEGISLATURE ACTING AS LAND AGENT BETWEEN VENDOR AND GOVERNMENT. — The defendant employed the plaintiff's agent, A, who was a member of the legislative assembly, to sell the defendant's land to the government. The legislative assembly had the power to advise the board and minister charged